

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ARVEST BANK,)
)
Plaintiff,)
)
v.) No. 10-2004
)
PRESTON E. BYRD, DONETTE L.)
BYRD, and PRESTON E. BYRD)
IRREVOCABLE INSURANCE TRUST,)
)
Defendants.)

**ORDER GRANTING MOTION TO COMPEL DISCOVERY RESPONSES IN AID OF
EXECUTION OF JUDGMENT**

Before the Court is Plaintiff Arvest Bank's ("Arvest") November 12, 2012 Motion to Compel Discovery Responses in Aid of Execution of Judgment. (ECF No. 213.) Defendants Preston E. Byrd and Donette L. Byrd (collectively the "Byrds") have not responded to the interrogatories and requests for production of documents propounded to them by Arvest on May 8, 2012, and the time to do so has passed. (*Id.*); see also Fed. R. Civ. P. 34(b).

Judgment was entered against the Byrds on December 30, 2011. (ECF No. 177.) The Byrds filed Motions for a New Trial on January 27, 2012. (ECF No. 178; ECF No. 179.) On March 8, 2012, Arvest served interrogatories and requests for production in aid of execution of the Judgment on the Byrds. (Pl.'s Resp.

in Opp. to Defs.' Mot. for Protective Order ¶ 3, ECF No. 188.) On April 9, 2012, the Byrds filed a Motion for Protective Order seeking to stay discovery pending the Court's determination of their Motions for a New Trial. (ECF No. 187.) On May 7, 2012, Magistrate Judge Tu M. Pham denied the Byrds' Motion for Protective Order. (ECF No. 192.) On September 27, 2012, this Court denied the Byrds' Motions for a New Trial. (ECF No. 203.) The Byrds filed a Notice of Appeal and a Motion to Stay Proceedings to Enforce Judgment Pending Appeal on October 29, 2012. (ECF No. 204; ECF No. 206.) The Court denied the Byrds' Motion to Stay Enforcement on November 1, 2012. (ECF No. 211.)

Arvest is entitled to obtain discovery from the Byrds, its judgment debtors, in aid of execution of the Judgment it holds against them. Fed. R. Civ. P. 69(a)(2). The Byrds have not objected to the form or content of Arvest's discovery requests. See Id.; Fed. R. Civ. P. 34; Fed R. Civ. P. 26(b). The Byrds are entitled to seek a stay of execution of the Judgment and any proceedings to enforce it through a supersedeas bond pending appeal. See Fed. R. Civ. P. 62(d). The Byrds have not obtained, and do not seek to obtain, a sufficient supersedeas bond, and the Court has denied their Motion to Stay Proceedings to Enforce Judgment Pending Appeal without bond. (Order Denying Mot. to Stay Enforcement, ECF No. 211.)

The Byrds have not complied with the required procedures to obtain a stay of proceedings in aid of execution of Judgment. They have not provided any justification for their failure to respond to Arvest's interrogatories or requests for production. Arvest's Motion to Compel Discovery Responses in Aid of Execution of Judgment is GRANTED. The Byrds are ordered to respond fully and completely to the discovery requests propounded to them by Arvest on March 8, 2012, within twenty-eight (28) days of the date of this Order.

So ordered this 14th day of November, 2012.

s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE